DK 174

will seek adoption there. The first faint-hearted trickle of Kikuyu from Metume to the south possibly did this, but when the effective exodus began the Kikuyu would have gained the confidence inspired by numbers. They would start settlements and set about the clearing of the forest without the leave of anyone. Then the Dorobo would appear and enter an objection to this encroachment on their means of livelihood. Quite possibly a few Kikuyu had already died from poisoned arrows loosed at them by unseen hunters who resented the intrusion on their hunting-grounds, and the Kikuyu settlements would have had to mount a constant guard by day and night to try to stop such murders, and would have had to provide armed warrior escorts every time their women went away from the homestead about their household chores. Neither the Kikuyu nor the Dorobo would have liked this state of affairs. The former wanted agricultural land, and peaceful penetration was the safest way to get it; the latter knew quite well a few occasional killings here and there among the interlopers would be of no avail; the encroachment would continue. The obvious answer was adoption, which, at least in theory, would give both peoples something of what they wanted. But the Kikuyu, arrogant by now by reason of their numbers—there was probably no more than one Dorobo family to a ridge—would claim that the adopting should be done by them, they being the only party with the power to guarantee protection to the other. But the rite itself entailed no sale of any kind and no exchange of property. The one exchange was that of vows involving a unity of clan, a community of wealth, the sharing of resources, reciprocal assistance, mutual trust and an unstinting aid by either when the other was in need—in fact the obligations common decency and custom and the law required of close relations in the gens.

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Acquisition by pledge

The second way was that of pawning cultivation rights in land against the temporary accommodation of loan of goats. This was the so-called redeemable sale of all the other tribes within the Unit, including the Kikuyu to the north. There can be little doubt that when the Kikuyu from Metume crossed the Chania they brought their

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customs with them, and these did not include an outright sale—transfer in perpetuity—among Kikuyu. This in itself does not at once rule out the possibility of some tradition or of a tribal memory of outright purchase from Dorobo, nor are we justified, because the present outright sale in Kiambu is thought to have its raison d'être in outright purchase from Dorobo, in arguing the other way round and finding that the lack of outright sale among the Kikuyu of Fort Hall means that there never was an outright purchase from Dorobo in that district.

K Implications of adoption

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None the less the way in which the Kiambu Kikuyu claim to have got their land—by outright purchase—can only mean they got it by outright purchase from Kikuyu, that is if we accept it as a fact that a pre-condition of such purchase was adoption. If, in such a case, there were outright purchase, then it was in law an outright purchase by a Kikuyu from a fellow-tribesman, and consequently was contrary to the custom the Karura people brought with them across the Chania. I have been assured by many Karura men, both young and old (mostly the latter), that the Metume custom was still their law until fairly recent years, and that the change was brought about after the intervention of the British—some say that the Government inaugurated it, others name the Government-appointed Chiefs who, they assert, forced the change on tribesmen none too certain what its implications were, still others link it with the [p. 104] change of currency, money instead of goats, but all who hold the view that there was a change in custom on the point relate it directly or indirectly to the general change in outlook attendant on the European advent.

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In any case the Kiambu Kikuyu cannot maintain that both these customs, outright purchase and adoption, were observed in one transaction, for the two are incompatible. One cannot make another man a member of one's family, swear to protect his interests and in every way to treat him as one's own full-brother, and then exclude him absolutely from a share in any portion of the family land; at least not honestly. One might invoke a legal fiction hold that the piece of land he "sold" to one became one's share of family land, the piece he failed to "sell" remaining his, but no Metume custom gives a brother any right of absolute and irredeemable disposal of

423 /260 cont./

The individual person does not have an exclusive right to land or to the use of hunting grounds. Rather, both are common property. 224 Only one half of any slain game down to the size of a medium ante- 421 lope belongs to the hunter and his campmates together, while the other half of a male animal is given to the members of his lineage, those of a female one to the relatives of his wife or wives: in both cases: insofar as those entitled to receive it live in the immediate vicinity. Of the two tusks (ligatok, ligasch) of the elephant each [178] receives half. Recently, the large teeth of the hippopotamus have been shared in the same manner, whereas formerly /261/ they were left lying, along with the bones. For the horns (hadong, hadama) of the rhinoceros the hunter receives in exchange poison or arrow points and then distributes these things among the people who previously were to share the meat of the animal. The hides of the slain game belong to the hunter.

All smaller game belongs entirely to the hunter and his campmates.

421 Property belongs to the single individual, not to the family community. A lost article is returned to the owner, without the finder's 425 claiming a reward. There is no punishment for the appropriation of found articles.

43 There is no general medium of exchange. Money has not yet been adopted anywhere. Goods are always exchanged for goods. For ivory the caravan people pay cattle, goats, sheep, iron wire, beads, fabrics. In the individual barter transaction the Wandorobo never want one kind of goods above, but always several, and of the inanimate ones as many different kinds as possible. The exchange takes place with immediate delivery and is made valid by spitting on the objects. Only exceptionally is a brief delay granted for a 452 small part of the payment. The creditor seeks to have himself paid 426 by a dilatory debtor through self-help, and only if he has no success with that does he make a complaint. It not infrequently happens [583] that the creditor takes a small daughter of the debtor as security, and a marriageable one as a wife; in the latter instance, he deducts the amount of the debt from the bride price. The debtor's heir is liable, [672] and, to be sure, for the entire debt. With the debtor's inability to pay, the warranter is liable, if -- which is seldom the case -- one is present at all. The heir of the warrantor is also liable.

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000 D 431 D 572 is present at all. The heir of the warrantor is also liable. The giver is offended by a refusal to accept a gift. A counter-gift of approximately the same value follows gift-giving. The giver spits upon the gift when he hands it over. The Wandorobo never conclude into blood friendships among themselves, but only -- and, to be sure, very rarely -- with members of other tribes. The ceremony observed for this resembles the one described above among the Masai. If a stranger has bought ivory from him and paid only part of the price, D [197] [426] the ol doroboni often likes to conclude blood friendship with him because he thinks that then the debtor must die if he does not repay the debt as quickly as possible (1).

D [197]

1. This view is in general rare; it was not originally peculiar to the Asá, but adopted.

D 682 628 [171] [672] As among the Masai, the legal view makes no distinction between murder and manslaughter, but indeed between the latter and negligent homicide. A murderer caught in the very act is subject to blood revenge, for the execution of which every man belonging to the family of the one murdered and in some districts also any of his friends and campmates are justified. If the avengers do not succeed in capturing the murderer on the day of the murder, /262/ the latter is safe from blood revenge, for people see in the unsuccessful search for him a command of God to let him live. To atone for his deed, however, he must pay the principal heir of the deceased one large and two small ivory tusks. Negligent homicide is punished by the payment of a medium-sized ivory tusk. If the perpetrator and the one who was killed belong to the same lineage, the punishment is considerably D [648] less than if they are from different lineages of the same tribe. On the other hand, if the two belong to different tribes, the ones entitled to blood revenge often hand over the execution of it to the Masai, who kill the perpetrator, even if they do not capture him until after several months. Up to the completed payment the perpetrator is D M 682 648 M [564] [326] regarded as puni-andgt, corresponding to the ol oikobani of the Masai. If an Asá kills a Masai blacksmith, the deed remains unpunished because the blacksmiths are too weak for revenge and the Masai would